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Attorneys for Defendant Lowe's HIW, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MARTIN PETERSEN, an individual; and on
behalf of himself and all others similarly
situated,

Plaintiffs,

vs.

LOWE'S HIW, INC. a Washington
Corporation; and DOES 2 through 50,
inclusive,

Defendants.

Related Case No. CV-11-1996-RS

**JOINT STIPULATION TO SHORTEN
TIME AND [PROPOSED] ORDER
FOR BRIEFING SCHEDULE ON
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

CHARLEEN SWANEY, an individual; and
JOSEPH SARASUA, an individual; on
behalf of themselves and all others similarly
situated,

Plaintiffs,

vs.

LOWE'S HIW, INC. a Washington
Corporation; and DOES 2 through 50,
inclusive,

Defendants.

Case No.: C 11-03231-RS

SUSAN HURTADO, an individual; and on
behalf of herself and all others similarly
situated,

Plaintiffs,

vs.

LOWE'S HIW, INC. a Washington
Corporation; and DOES 2 through 50,
inclusive,

Defendants.

Case No.: C 11-2193-RS

Plaintiffs Martin Petersen ("Petersen"), Charleen Swaney ("Swaney"), Joseph Sarasua ("Sarasua"), and Susan Hurtado ("Hurtado") (collectively the "Plaintiffs") and Defendant Lowe's HIW, Inc. ("Defendant") (collectively the "Parties") hereby enter into this stipulation to shorten the briefing schedule on Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement ("Motion"). Specifically, the Parties stipulate that the time be shortened for Plaintiffs to file their unopposed Motion from 35 days to 21 days, and be filed no later than April 26, 2012, for hearing on May 17, 2012, subject to Court approval. None of the Parties will be prejudiced because the motion will be unopposed.

RECITALS

WHEREAS on March 4, 2011, Hurtado filed the action titled *Hurtado v. Lowe's HIW, INC.*, San Francisco County Superior Court Case No. CGC-11-508816, alleging that Defendant violated California Civil Code section 1747.08 by requesting and recording Hurtado's ZIP code in connection with a credit card transaction (the "Hurtado Action"). On May 4, 2011, Defendant removed the Hurtado Action to the United States District Court for the Northern District of

1 California, and the action was assigned Case No. C 11-2193-RS;

2 **WHEREAS** on or about March 11, 2011, Petersen filed the action *Petersen v. Lowe's*
 3 *HIW, INC.*, San Francisco County Superior Court Case No. CGC-11-509122, also alleging that
 4 Defendant violated California Civil Code section 1747.08 by requesting and recording Petersen's
 5 ZIP code in connection with a credit card transaction (the "Petersen Action"). On April 22, 2011,
 6 Defendant removed the Petersen Action to the United States District Court for the Northern
 7 District of California, and the action was assigned Case No. CV-11-1996-RS;

8 **WHEREAS** on or about March 23, 2011, Swaney and Sarasua filed a First Amended
 9 Complaint in the action *Swaney, et al. v. Lowe's HIW, Inc.*, Sacramento County Superior Court
 10 Case No. 34-2011-00098395, also alleging that Defendant violated Section 1747.08 by requesting
 11 and recording their ZIP codes during credit card transactions (the "Swaney Action"). On April
 12 29, 2011, Defendant removed the *Swaney* Action to the United States District Court for the
 13 Eastern District of California. On June 20, 2011, the action was transferred to the United States
 14 District Court for the Northern District of California where it was assigned Case No. C 11-03231-
 15 RS;

16 **WHEREAS** on July 11, 2011, Defendant filed a motion to relate the Hurtado, Petersen,
 17 and Swaney Actions, which the Court granted on July 15, 2011. As a result, the Actions were
 18 coordinated and assigned to The Honorable Richard Seeborg, United States District Court for the
 19 Northern District of California (the "Court");

20 **WHEREAS** the Parties engaged in arms-length negotiations, and on or about October 27,
 21 2011, they participated in an all-day mediation conducted by Mr. Michael E. Dickstein. After the
 22 October 27, 2011 mediation, Mr. Dickstein continued to work with the Parties, and a settlement
 23 was reached as to all material terms on class benefits and notice. The Parties have been working
 24 diligently to finalize all settlement documents, have now obtained all signatures on the formal
 25 Settlement Agreement and Plaintiffs are prepared to file their Motion for preliminary approval of
 26 the settlement;

27 **WHEREAS**, a Case Management Conference is currently scheduled in these related cases
 28 for May 17, 2012 at 10:00 a.m.;

1 **WHEREAS** Plaintiffs intend to set their unopposed Motion for hearing on May 17, 2012
2 at 1:30 p.m., and request that the Case Management Conference take place in conjunction with
3 this hearing;

4 **WHEREAS** Civil Local Rule 7-2(a) requires that a motion be noticed for a date not less
5 than 35 days after service of the motion;

6 **WHEREAS** the Parties have been working diligently to finalize all settlement documents,
7 and have now obtained all signatures on the Settlement Agreement and Plaintiffs are ready to file
8 the Motion;

9 **WHEREAS** Defendant does not intend to oppose the Motion, and therefore, no additional
10 briefing on the Motion will be filed with the Court. Thus, there is no prejudice to the Parties for
11 shortening the time; and

12 **WHEREAS** the Parties have agreed to shorten the time for hearing and have agreed that
13 Plaintiffs' Motion may be filed no later than Thursday, April 26, 2012.

14 **NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE** as
15 follows:

16 Plaintiffs' Motion shall be heard on shortened notice. Plaintiffs shall have until April 26,
17 2012 to file their Motion, which will be heard on May 17, 2012 at 1:30 p.m.

18 **IT IS SO STIPULATED.**

19 Dated: April 23, 2012

Respectfully submitted,

20 PATTERSON LAW GROUP, APC

21
22 By: /s/ James R. Patterson

James R. Patterson

23 *Attorneys for Plaintiffs Martin Petersen*
24 *and the Class*

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26 ///

27 ///

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By: /s/ Phillip J. Eskenazi
Phillip J. Eskenazi
Attorney for Defendant Lowe's HIW, Inc.

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FILER'S ATTESTATION


The undersigned attests that all parties have concurred in the filing of this document.

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By: /s/ Gene J. Stonebarger
Gene J. Stonebarger
*Attorney for Plaintiff Charleen Swaney,
Joseph Sarasua, and the Class*

PURSUANT TO STIPULATION IT IS SO ORDERED THAT time be shortened for
Plaintiffs to file their Unopposed Motion for Preliminary Approval of Class Action Settlement,
and that the Motion be filed no later than April 26, 2012, for hearing on May 17, 2012 at 1:30
p.m.

Date: 4/24/12


The Honorable Richard Seeborg
United States District Judge